

**Request for Charge to APNAC to Develop and Recommend Rules to Guide
APRNs Working in Pain Management Settings**

Summary of Request: Consider a request to charge the Advanced Practice Nursing Advisory Committee (APNAC) with development of rules to guide advanced practice registered nurses (APRNs) working in pain management settings to be submitted as a recommendation to the Board.

Historical Perspective: In recent years, significant attention has been given to clinics that are considered pain management clinics. While patients have a right to be pain free and receive appropriate treatment, it is also important to ensure that medications and treatments are prescribed in a therapeutic manner and that risks for diversion and abuse of prescription medications are minimized to the extent possible.

In 2009, the Texas Legislature added requirements for certification of pain clinics to the *Texas Occupations Code* (in the Medical Practice Act) due to an increase in the number of pain clinics and increased reports of patient/public harm and death as a result of non-therapeutic prescribing in these clinics. Chapter 168 requires that pain management clinics be certified by the Texas Medical Board and sets forth certain standards for those clinics. This includes a requirement that the owner of a pain management clinic be a physician, that the physician be on site in the clinic 33 percent of the time and review 33 percent of the medical records. The law also includes a list of sites that are exempt from the certification requirements. This includes an exemption for clinics owned or operated by advanced practice registered nurses who treat patients within the scope of their population focus or specialty area, even though the majority of the patients might be given prescriptions. This exemption has created confusion for advanced practice registered nurses and others regarding what this exemption means.

Board staff have noted an increase in the number of complaints received regarding APRNs practicing in certified and non-certified pain clinics. Findings of fact that have been included in ratified agreed orders for these APRNs have included findings such as failure to complete and document appropriate assessments, non-therapeutic prescribing, and failure to follow up on referrals for laboratory and diagnostic testing and consultation with other health care providers. At this time, Board rules do not provide specific guidance to APRNs regarding requirements for practice in these settings. Senate Bill 1646, filed by Senator Williams in the current (83rd) legislative session, would amend the Nursing Practice Act by adding language that would grant explicit authority for the Board to adopt rules regarding pain management services provided by advanced practice registered nurses. Regardless of whether the bill passes, rules regarding the standard of care to be met in pain management practices would assist APRNs who practice in these settings to ensure that their practices meet or exceed the Board's expectations and would serve to protect the public from unsafe practitioners. Further, it would provide a basis upon which to evaluate complaints received. The Texas Medical Board has rules by which complaints regarding physicians who practice in pain management practices can be evaluated. Staff anticipates that standards for APRNs would be similar to those adopted by the Texas Medical Board with additional requirements for physician delegation and collaboration as is required by state law. Staff is requesting that the APNAC be charged with development of rule language that will be submitted as a recommendation for the Board's consideration at a future meeting.

Pros and Cons: Seeking input from the APNAC will ensure that affected stakeholders have an opportunity for input into the development of new rules. Development of rules for APRNs who provide pain management services will help to ensure that advanced practice registered nurses who practice in these settings are in compliance with the Board's expectations.

Staff Recommendation: Move to charge the Advanced Practice Nursing Advisory Committee with developing recommendations for rules relating to advanced practice registered nurses who practice in pain management settings. The committee's recommendations shall be presented for the Board's consideration at a future Board meeting.